

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rule making related to tourist-oriented directional signing and providing an opportunity for public comment

The Department of Transportation hereby proposes to amend Chapter 119, “Tourist-Oriented Directional Signing,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 307.12 and 321.252.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 321.252.

Purpose and Summary

This rule making proposes amendments to Chapter 119, which provides rules for the establishment of tourist-oriented directional signing on Iowa’s primary highways. The proposed amendments clarify the definition of “primary highway” in rule 761—119.1(321) by adding the language used for “primary road system” in Iowa Code section 306.3(6). Currently, the definition does not actually define the term; rather it excludes portions of the meaning found in Iowa Code section 306C.10.

The proposed amendments also clarify that the Department is responsible for determining whether sufficient space exists in which to place the tourist-oriented directional signs. The amendments clarify the process for determining which businesses may participate when conditions may limit the number of signs that can be placed near an intersection, and strike a provision for “advance signing,” which is not used in Iowa. Likely, the advance signing provision had been included because the Manual on Uniform Traffic Control Devices (MUTCD) provided for it. However, the provision is unnecessary; the Department installs the signs at an appropriate distance from the intersection, allowing motorists sufficient time to identify, react to, and make the turn. If there is a safety question regarding existing sign placements, the Department can investigate whether the signs are appropriately distanced from the intersection.

This rule making also proposes changes to the types of services that may qualify for the motorist service category of the signing program by replacing the word “gas” with “fueling stations,” which may include alternative fuels, and by replacing the word “passenger” with “motor” so that the phrase reads “motor vehicle service or repair.” The term “gas,” though undefined by this chapter, is generally thought to exclude other fuels that do not consist of refined petroleum or gasoline. There is an increasing demand from the motoring public and environmental and industry groups to identify facilities that offer alternative fuels. The amendment will allow facilities that offer diesel, biodiesel, electricity, hydrogen, compressed natural gas, and other alternative fuels to be eligible for the program. The phrase “motor vehicle service or repair” provides less specificity for qualification purposes and allows for the consideration of businesses which are service-oriented toward motorcycles, recreational vehicles and trucks.

This rule making also proposes to rescind subrule 119.5(4) and to move existing language which states that the Department will hold a lottery if the number of approved applicants exceeds the number of spaces available to subrule 119.2(2). Although the requests rarely exceed the spaces available, the provision fits more appropriately in subrule 119.2(2), concerning spacing and location. A clarification is added that existing participants in the program will not be at risk for losing their signs in a lottery drawing.

Furthermore, the proposed amendments strike subrule 119.6(4) concerning the additional services the Department may perform regarding the modification of a tourist-oriented directional sign. After review of this subrule, the Department found a lack of applicability to any situation, and the \$50 service fee included is not levied by the Department. The message for the sign is fixed and not intended for modification.

In addition, the proposed amendments clarify language concerning the fees relating to tourist-oriented directional signing. Current subrule 119.6(3) requires an unspecified amount for the cost of sign fabrication and installation. The proposed amendment to subrule 119.6(3) specifies the actual total amount due, which includes the \$100 initial fee. These amendments do not increase the fees; the fees indicated reflect the amounts that have been charged since 1996.

Finally, the proposed amendments strike existing language regarding not-for-profit organizations and add a new subrule concerning not-for-profit organizations to allow an organization to receive a limit of one set of free signs. If the not-for-profit organization requests additional signs, the organization will be charged the fee as specified in subrule 119.6(3). This change retains the ability of these organizations to obtain free signing for the appropriate intersections while eliminating the incentive to “blanket” the region with signs paid for by public moneys. Businesses and not-for-profit organizations can certainly request more than one set of signs if the activity or site is located within a qualifying range of eligible intersections; however, the business or not-for-profit organization will need to pay the fee. The primary intent of the program is to provide tourist-related and motorist service information for the traveling public, and only secondarily to provide a means of advertising for the organization making the application.

The development and revision of Chapter 119 requires consultation and approval from a multiagency committee known as the Iowa Tourist Signing Committee established in Iowa Code section 321.252(3). The Committee approved these proposed amendments.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. The fees identified in the rule amendment have been in place since 1996 and are not being increased. The fiscal impact to not-for-profit organizations caused by limiting the number of free signs should be negligible. The vast majority of these organizations are only expecting to have one set of signs installed at the nearest and most appropriate intersection, and these signs will continue to be provided free of charge. For the few organizations that would have otherwise obtained multiple sets of signs (likely because they were free), the Department anticipates that the organizations will apply for the single set rather than spending money on additional sets.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the person’s circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on March 19, 2019. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Strategic Communications and Policy
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

A public hearing to hear requested oral presentations will be held as follows:

March 21, 2019
10 a.m.

Department of Transportation
Administration Building, Second Floor
Conference Room
800 Lincoln Way
Ames, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Tracy George, the Department's rules administrator, and advise of specific needs.

The public hearing will be canceled without further notice if no oral presentation is requested.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule **761—119.1(321)**, definition of "Primary highway," as follows:

"Primary highway," for the purpose of this chapter, means those roads and streets both inside and outside the boundaries of municipalities which are under department jurisdiction but does not include an interstate highway or a freeway primary highway as defined in Iowa Code section 306C.10.

ITEM 2. Amend rule 761—119.2(321) as follows:

761—119.2(321) General.

119.2(1) No change.

119.2(2) *Spacing and location.*

a. Tourist-oriented directional signing shall be installed only when sufficient space is available. The determination of whether sufficient space is available is the responsibility of the department in accordance with the MUTCD and department policies. If the number of applications exceeds the capacity to accommodate all of the requests, a lottery drawing shall be held to determine which applications will be accepted. However, activities and sites which are already participating in the tourist-oriented directional signing program shall not be subject to the lottery drawing, provided that each applicant's participation remains in compliance with this chapter, including the timely payment of fees.

b. to e. No change.

~~**119.2(3)** *Advance signing.* Advance signing authorized by the MUTCD may be installed where the department determines that advance notification of an activity or site would reduce vehicle conflicts and improve highway safety.~~

~~119.2(4)~~ **119.2(3)** *Message*. The message on a tourist-oriented directional sign is limited to a descriptive name, a directional arrow, ~~and the travel distance to the activity or site, and in some cases for motorist services, an additional short word or acronym indicating an essential fuel type such as diesel, E-85, or EV (electric vehicle charging station).~~ However, if an agricultural business activity offers tours, the message for the activity shall include the word “tours.”

ITEM 3. Amend paragraph **119.4(1)“a”** as follows:

a. A service of significant interest to motorists may qualify. The types of services which may qualify include, but are not limited to: gas, fueling stations, including those that offer alternative fuels; food; lodging; or passenger; and motor vehicle service or repair.

ITEM 4. Rescind subrule **119.5(4)**.

ITEM 5. Amend rule 761—119.6(321) as follows:

761—119.6(321) Installation, maintenance, replacement and removal.

119.6(1) *Installation and maintenance of tourist-oriented directional signs*. Except as provided in subrule ~~119.6(5)~~ **119.6(4)**, the department shall fabricate and perform all required installation, maintenance, removal and replacement of tourist-oriented directional signs that are located within the right-of-way.

a. No change.

b. A tourist-oriented directional sign ~~for a for-profit activity or site~~ shall not be installed until the applicant has paid the department the initial fee specified in subrule 119.6(3). ~~If the activity or site is not for profit, the department shall fabricate and install the sign and provide normal maintenance at no cost to the applicant.~~

119.6(2) *Installation and maintenance of trailblazing signs*. If the activity or site is not located adjacent to the secondary road or city street intersecting the primary route, trailblazing signs are required. Trailblazing signs shall conform to requirements in the MUTCD.

a. No change.

b. Trailblazing signs ~~for a for-profit activity or site~~ shall not be installed until the applicant has paid the department a fee for the cost of sign fabrication.

c. No change.

119.6(3) *Fees Initial and renewal fees*. The initial fee, payable once an application is approved, is ~~\$100 per sign plus \$350 for each 72" x 18" sign placed along the primary highway and \$26 for each trailblazing sign placed along a nonprimary highway.~~ These fees include the cost of sign fabrication and installation but do not include any additional fees which may be required by local jurisdictions for the placement of trailblazing signs along local road systems. The annual renewal fee, payable on or before June 30 of each year, is \$50 per sign, which excluding trailblazing signs. This fee covers the administrative costs and normal maintenance. ~~These fees apply to for-profit activities or sites only.~~

119.6(4) *Additional services*. The department may perform additional services requested for an activity or site in connection with the modification of a tourist-oriented directional sign. ~~If the sign is for a for-profit activity or site, the activity or site shall prepay a \$50 service charge plus the cost of any required new or renovated sign.~~

~~119.6(5)~~ **119.6(4)** *Seasonal activity or site*. A tourist-oriented directional sign for a seasonal activity or site must either be masked or have a “closed” panel installed over the sign’s directional information when the activity or site is closed or when the hours of operation decrease below the minimum requirements during the off-season period. Either the department or the activity or site with the department’s permission shall perform the work. If the department performs the work, the approved applicant must pay the actual cost to install and remove the “closed” panel or to mask the sign.

~~119.6(6)~~ **119.6(5)** *Required replacement*.

a. The department shall determine when a tourist-oriented directional sign is no longer serviceable and needs to be replaced. ~~A for-profit~~ If such a determination is made, the activity or site must pay for the cost of a new sign and its installation prior to installation. ~~If the activity or site is not for profit, the department shall replace the sign at no cost to the activity or site.~~

b. The department is not responsible for theft of tourist-oriented directional signs or damage to them caused by vandalism, vehicle accidents, or natural causes. If a sign for a for-profit activity or site requires repair or replacement due to theft or damage, the activity or site must pay the cost of a new sign and its installation. At the activity's or site's request, this cost may be spread over a 12-month period. If the activity or site is not for profit, the department shall repair or replace the sign at no cost to the activity or site.

119.6(6) *Not-for-profit organizations.* A not-for-profit organization operating an activity or site in accordance with the requirements of this chapter is exempted from all fees and costs associated with the installation and maintenance of a single set of signs at a location determined by the department to be the most reasonable approach to the destination. If additional locations are requested by the not-for-profit organization, all fees and costs described in this chapter shall apply to the additional locations.

119.6(7) *Removal.* The department shall remove a tourist-oriented directional sign if the activity or site no longer qualifies for tourist-oriented directional signing. As official signs, all tourist-oriented directional signs are the property of the department and shall not be given to applicants upon the signs' removal.